MONTANA LEGISLATIVE HISTORY

Chapter 502 1982

Bill H 426 S _____ Original bill & history ✓ C

H. Committee on Business and Labor			S. Committee on Business and Industry		
Hearing Date(s)	Feb 04	✓ C	Hearing Date(s)	Mar 18	✓ C
	Feb 11	✓ C		Mar 30	✓ C
		C			C
		C			C
Date Out	Feb 11	✓ C		Mar 30	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

2/19 TABLED IN COMMITTEE

HB 424 INTRODUCED BY MOORE, ET AL.
REVISE PENALTY FOR UNLAWFULLY TAKING FUR-BEARING ANIMAL

1/23	INTRODUCED		
1/23	REFERRED TO FISH & GAME		
2/10	HEARING		
2/11	COMMITTEE REPORT--BILL PASSED		
2/14	2ND READING PASSED	86	8
2/16	3RD READING PASSED	82	10
	TRANSMITTED TO SENATE		
2/17	REFERRED TO FISH & GAME		
3/17	HEARING		
3/18	COMMITTEE REPORT--BILL CONCURRED		
3/20	2ND READING CONCURRED	49	0
3/23	3RD READING CONCURRED	47	1
	RETURNED TO HOUSE		
3/30	SIGNED BY SPEAKER		
3/31	SIGNED BY PRESIDENT		
3/31	TRANSMITTED TO GOVERNOR		
4/03	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 334 EFFECTIVE DATE: 10/01/87		

HB 425 INTRODUCED BY CORNE', ET AL.
REVISE EXPERIENCE AND EDUCATION REQUIREMENTS FOR ENGINEER LICENSE

1/24	INTRODUCED		
1/24	REFERRED TO BUSINESS & LABOR		
2/05	HEARING		
2/05	TABLED IN COMMITTEE		

HB 426 INTRODUCED BY CAMPBELL
REVISE GOVERNMENT INSURANCE
BY REQUEST OF STATE AUDITOR

1/24	INTRODUCED		
1/24	REFERRED TO BUSINESS & LABOR		
1/24	FISCAL NOTE REQUESTED		
1/29	FISCAL NOTE RECEIVED		
2/04	HEARING		
2/11	COMMITTEE REPORT--BILL PASSED		
2/13	2ND READING PASSED AS AMENDED	86	7
2/16	3RD READING PASSED	91	1
	TRANSMITTED TO SENATE		
2/17	REFERRED TO BUSINESS & INDUSTRY		
3/18	HEARING		
3/23	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/27	2ND READING CONCURRED	50	0
3/30	3RD READING CONCURRED	50	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/07	2ND READING AMENDMENTS CONCURRED	67	22
4/08	3RD READING AMENDMENTS CONCURRED	86	5
4/10	SIGNED BY SPEAKER		
4/10	SIGNED BY PRESIDENT		
4/10	TRANSMITTED TO GOVERNOR		

4/15 SIGNED BY GOVERNOR
CHAPTER NUMBER 502 EFFECTIVE DATE: 10/01/87

HB 427 INTRODUCED BY VINCENT
ALLOW SERVICE WITH COOPERATIVE EXTENSION SERVICE TO QUALIFY IN TEACHERS' RETIREMENT

1/24	INTRODUCED		
1/24	REFERRED TO STATE ADMINISTRATION		
1/24	FISCAL NOTE REQUESTED		
1/29	FISCAL NOTE RECEIVED		
2/03	HEARING		
2/06	COMMITTEE REPORT--BILL PASSED		
2/09	2ND READING PASSED	94	3
2/10	3RD READING PASSED	96	2
	TRANSMITTED TO SENATE		
2/11	REFERRED TO STATE ADMINISTRATION		
2/20	HEARING		
2/24	COMMITTEE REPORT--BILL CONCURRED		
3/03	2ND READING CONCURRED	50	0
3/05	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
3/10	SIGNED BY SPEAKER		
3/10	SIGNED BY PRESIDENT		
3/11	TRANSMITTED TO GOVERNOR		
3/13	SIGNED BY GOVERNOR		

CHAPTER NUMBER 79 EFFECTIVE DATE: 7/01/87

HB 428 INTRODUCED BY CONNELLY, ET AL.
UTILIZATION OF FUNDS GENERATED BY TAXATION OF ALCOHOLIC BEVERAGES
BY REQUEST OF DEPARTMENT OF INSTITUTIONS

1/24	INTRODUCED		
1/24	REFERRED TO TAXATION		
1/24	FISCAL NOTE REQUESTED		
1/26	FISCAL NOTE RECEIVED		
2/05	HEARING		
2/06	COMMITTEE REPORT--BILL PASSED		
2/10	2ND READING PASSED	96	1
2/11	3RD READING PASSED	94	2
	TRANSMITTED TO SENATE		
2/12	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/23	HEARING		
3/25	COMMITTEE REPORT--BILL CONCURRED		
3/28	2ND READING CONCURRED	50	0
3/30	3RD READING CONCURRED	48	2
	RETURNED TO HOUSE		
4/02	SIGNED BY SPEAKER		
4/02	SIGNED BY PRESIDENT		
4/03	TRANSMITTED TO GOVERNOR		
4/07	SIGNED BY GOVERNOR		

CHAPTER NUMBER 402 EFFECTIVE DATE: 10/01/87

HB 429 INTRODUCED BY SCHYE, ET AL.
PROVIDE FOR FISH AND GAME COMMISSION APPROVAL FOR AWARDING FISHING PRIZES

House BILL NO. 426

INTRODUCED BY Campbell Beck

BY REQUEST OF THE STATE AUDITOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE INSURANCE LAWS OF THE STATE OF MONTANA RELATING TO THE REGULATION OF GOVERNMENTAL INSURANCE PROGRAMS; AND AMENDING SECTIONS 33-1-102 AND 33-1-201, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-1-102, MCA, is amended to read:

"33-1-102. Compliance required -- exceptions -- health service corporations. (1) No person shall transact a business of insurance in Montana or relative to a subject resident, located, or to be performed in Montana without complying with the applicable provisions of this code.

(2) No provision of this code shall apply with respect to:

(a) domestic farm mutual insurers as identified in chapter 4, except as stated in chapter 4;

(b) domestic benevolent associations as identified in chapter 6, except as stated in chapter 6; and

(c) fraternal benefit societies, except as stated in chapter 7.

(3) This code shall not apply to health service corporations to the extent that the existence and operations of such corporations are authorized by Title 35, chapter 2, and related sections of the Montana Code Annotated.

(4) This code does not apply to workers' compensation insurance programs provided for in Title 39, chapter 71, parts 21 and 23, and related sections.

(5) This code does not apply to the state employee group insurance program established in Title 2, chapter 18, part 8.

(6) This code does not apply to insurance funded through the state self-insurance reserve fund provided for in 2-9-202."

Section 2. Section 33-1-201, MCA, is amended to read:

"33-1-201. Definitions -- insurance in general. For the purposes of this code, the following definitions apply unless the context requires otherwise:

(1) An "alien insurer" is one formed under the laws of any country other than the United States, its states, districts, territories, and commonwealths.

(2) An "authorized insurer" is one duly authorized by subsisting certificate of authority issued by the commissioner to transact insurance in this state.

(3) A "domestic insurer" is one incorporated under the laws of this state.

(4) A "foreign insurer" is one formed under the laws

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INTRODUCED BILL
HB 426

of any jurisdiction other than this state. Except where distinguished by context, foreign insurer includes also an alien insurer.

(5) "Insurance" is a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies. The term includes but is not limited to:

(a) any arrangement, plan, or interlocal agreement between political subdivisions of this state whereby the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan; and

(b) any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state whereby the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program.

(6) "Insurer" includes every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance.

(7) A "resident domestic insurer" is an insurer incorporated under the laws of this state and:

(a) if a mutual company, not less than one-half of the

policyholders are natural persons who are residents of this state; or

(b) if a stock insurer, not less than one-half of the shares are owned by natural persons who are residents of this state and all of the directors and officers of the insurer are residents of this state.

(8) "State", when used as to jurisdiction, means a state, the District of Columbia, or a territory, commonwealth, or possession of the United States.

(9) "Transact", with respect to insurance, includes any of the following:

(a) solicitation and inducement;

(b) preliminary negotiations;

(c) effectuation of a contract of insurance;

(d) transaction of matters subsequent to effectuation of the contract of insurance and arising out of it.

(10) An "unauthorized insurer" is one not authorized by subsisting certificate of authority issued by the commissioner to transact insurance in this state."

NEW SECTION. Section 3. Extension of authority. Any existing authority of the commissioner of insurance to make rules on the subject of the provisions of this act is extended to the provisions of this act.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB426 , as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:
An act to generally revise the insurance laws of the State of Montana relating to the regulation of Governmental Insurance Programs; and amending Sections 33-1-102 and 33-1-201, MCA.

FISCAL IMPACT:
None.

David L. Hunter DATE 1/29/87
DAVID L. HUNTER, BUDGET DIRECTOR
Office of Budget and Program Planning

Bud Campbell DATE 1-29-87
BUD CAMPBELL, PRIMARY SPONSOR

Fiscal Note for HB426, as introduced.

HB-426

the cost of health care is shifted to those under 65 years of age. Rep. Fritz responded that was what the physicians have told him, and that would be true if medicare payments are below the going rate.

Rep. Brandewie asked Dr. Nelson if he could tell him if this would have a detrimental effect on small practices in rural towns across the state such as Bigfork, and effect their ability to continue. Dr. Nelson responded that there is no question that in small, rural communities, the costs of doing practice has to be shifted somewhere.

Rep. Brandewie said that Rep. Fritz suggested that a doctor making a decision of whether a patient could afford to pay or not was an egalitarian solution, but with this legislation, it is determining that all doctors could afford to absorb this loss, and he asked Rep. Fritz to comment on that. Rep. Fritz responded that if the medicare payments are less than the doctors' rates, it is a loss, and is an egalitarian solution.

Rep. Hansen asked Mr. Loendorf that in the chart he showed why was there a discrepancy in the amount of payment for a procedure that those using medicare had prescribed and what the doctor had determined was a fair price. Mr. Loendorf responded that medicare doesn't attempt to determine what a fair price is, they are constrained by the amount of their appropriation and the projected medicare population in allocating that money.

CLOSING

Rep. Fritz stated that this is a question of public policy that needs to be addressed both in the state and in the nation. He quoted from a recent writer on the subject, saying that cost controls are essential. He said why shouldn't the government like any sensible customer use its market power to hold prices down, and that the essential reform is to require doctors who want medicare patients to accept medicare prices. He added that the concerns of both sides are legitimate, but the problems of senior citizens with respect to medical costs, particularly of the low income senior citizens, are real and pressing, and this issue demands resolution.

HOUSE BILL NO. 426 - Revise Government Insurance, sponsored by Rep. Bud Campbell, House District No. 48, Deer Lodge. Rep. Campbell stated that the purpose of section 1 of this bill is to exempt from additional regulation by the Insurance Commissioner those programs established by statute and administered by another agency of state government. He said the programs that are excluded are the employees' self

insurance and the state fund programs administered by the workers compensation division; the state employees group, the insurance program run by the Department of Administration and the state's self insured insurance reserve fund administered by the tort claims division by the Department of Administration. He added that section 2 of the bill amends existing definition of insurance to include insured programs developed by political subdivisions which would be insurance programs organized by cities, counties, and school districts.

PROPONENTS

Roger Throssell, Chief Legal Counsel, State Auditor's Office. Mr. Throssell stated this bill is an attempt to clarify legislators' intention as to the regulation of the various governmental insurance programs. He commented the main purpose of the bill is to bring the various programs that have been developed within the last year or two by the political subdivisions, the cities, counties and the school districts under the regulation of the Insurance Commissioner. He said the concern is that there is nothing in the code directing how these programs are to be formed; there is nothing directing those political subdivisions or the Insurance Commissioner what criteria is to be used in the development of those programs, and for that purpose the State Auditor has asked that this bill be introduced to have the legislature address these questions. Exhibit No. 21.

Glen Drake, representing American Insurance Association. Mr. Drake stated that they support this bill for the reasons given by Mr. Throssell. They believe without this bill these governmental organizations that they speak of would be totally unregulated. He said, however, they have a concern that these associations would automatically become members of the guarantee insurance fund, which is a fund created by all the participating insurers and provides that if one goes insolvent the others pay the bills, but they might not have an incentive to remain solvent. He is asking that the committee form a subcommittee to review the problems with the guarantee fund.

Chairman Kitselman stated he is referring House Bill No. 426 to a subcommittee of Rep. Glaser, Rep. Thomas, and Rep. Pavlovich, with Rep. Glaser as chairman.

Roger McGlenn, Executive Director, Independent Insurance Agents Association of Montana. Mr. McGlenn stated that without this legislation there would be no regulatory control over these programs for the protection of citizens. He said they are not testifying from a competitive advantage or competitive position.

Bonnie Tippy, Alliance of American Insurers. Ms. Tippy stated they support the bill, but they also feel that the situation with the guarantee insurance fund should be looked at by a subcommittee.

OPPONENTS

Alec Hanson, Montana League of Cities and Towns. Mr. Hanson stated they were forced to get into the insurance business by circumstances to provide an alternative to the commercial market. He said they were compelled to form an insurance program to provide adequate insurance coverage at the lowest possible cost with participation in their program restricted to cities. They are concerned that with this bill the cost of regulation would increase the cost of premiums to their members, that their program provided by the cities, for the cities, without profit or without marketing to the general public, could be taxed. He said if the program is taxed, the amount of the tax will go directly on the cost of the insurance premium and then to the cost to the cities and down to the taxpayers of the state. He added they do not object to some reasonable reporting requirement, but to being treated as a commercial insurance company when all they are attempting to do is provide an alternative for cities and town financed by tax dollars.

QUESTIONS

Rep. Driscoll asked why the State Auditor doesn't want to regulate the state employees group health insurance when they are building a big trust fund and are cutting benefits. Mr. Throssell stated that currently, the existing law and the legislature in the act creating the state employees group insurance program, has already exempted the program from Title 33 and they do not wish to change that.

CLOSING

Rep. Campbell made no further comments.

HOUSE BILL NO. 439 - Codifying Laws On Risk Retention Groups and Purchasing Groups, Rep. Edward Grady, House District No. 47, Helena. Rep. Grady stated that this bill involves risk retention and purchasing groups.

PROPONENTS

Kathy Irigoin, State Auditor's Office. Ms. Irigoin stated that this bill would implement the 1986 federal act and clarify the laws with which risk retention groups and purchasing groups will have to comply with when operating in Montana. She distributed a fact sheet on the Liability Risk

ACTION ON HOUSE BILL NO. 433

Rep. Swysgood moved that House Bill No. 433 DO PASS.

Rep. Swysgood moved amendments as proposed. The motion carried with Rep. Driscoll opposed and Rep. Cohen being absent.

Rep. Swysgood moved that House Bill No. 433 DO PASS AS AMENDED. The motion carried with Rep. Driscoll opposed and Rep. Cohen being absent.

ACTION ON HOUSE BILL NO. 439

Rep. Brandewie moved that House Bill No. 439 DO PASS.

Rep. Brandewie moved the amendments proposed by the State Auditor. The motion carried with Rep. Cohen being absent.

Rep. Brandewie moved that House Bill No. 439 DO PASS AS AMENDED. The motion carried with Rep. Cohen being absent.

ACTION ON HOUSE BILL NO. 426

Chairman Kitselman referred House Bill No. 426 to a subcommittee composed of Rep. Glaser, Rep. Thomas, and Rep. Pavlovich, with Rep. Glaser as chairman.

ACTION ON HOUSE BILL NO. 415

Rep. McCormick moved that House Bill No. 415 DO PASS.

DISCUSSION

Rep. Swysgood stated there were many problems with this bill. He said in the testimony given it was stated that there would be financial impacts on age groups under 65, the difficulty the physicians in the smaller rural areas would have, and the misconception on the part of the elderly as to what exactly this bill does. He said there should be some clarification on these problems.

Rep. Hansen stated that there was a lot of misconceptions with this bill on both sides. She said the elderly people that worked on the bill understand how medicaid works, and she talked to some physicians that understand; but the rest of the people she talked to don't understand. She stated that this could be ignored and tabled, but she would like to see it on the House floor for a full discussion, because this issue would not disappear, and should be resolved.

Rep. Bachini stated that there are problems, but the problems are back in Washington with the method of funding; there is no real equalization the way it is structured. He

DAILY ROLL CALL

BUSINESS & LABOR COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date February 4, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓ (absent for part of hearing)		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

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EXHIBIT 01
DATE 2/4/87
HB 426

Testimony
Robert Throssell, Chief Legal Counsel
State Auditor and Commissioner of Insurance

LC 1098/01

HOUSE BILL NO. 426

REGULATION OF GOVERNMENTAL INSURANCE PROGRAMS

The Legislature over the years has created various governmental insurance programs administered by state and local governments. The one that is in the news is the state fund plan of Workers' Compensation Insurance. The state fund plan of the Workers' Compensation Insurance is operated in the same fashion as an insurance company. An employer obtains coverage by paying a premium to the state fund. The other style of insurance programs operated by the state are those currently used to fund the self-insurance reserve for tort claims and the state employees group insurance plan. In these two programs, the state creates a reserve or funds the claims that come in.

As a result of the state of Montana becoming involved in the provision of insurance benefits, specific acts have been passed to create these programs. At times, like the state employees group insurance program, the Legislature has specifically stated that Title 33, the Insurance Code, will not apply to the program. But in the case of Workers' Compensation and the State Self-Insurance Reserve Fund, no specific exclusions were provided. The purpose of this HB 426 is to have the Legislature clarify if it intends for the Insurance Code to apply to these types of programs. This bill addresses five specific governmental insurance programs.

Section one of HB 426 exempts Workers' Compensation Plan Number One, the employer or employers' association self-insurance plan and Workers' Compensation Plan Number Three, the state plan, from regulation by the Insurance Code. While not clearly stated in the law, the effect of current law is to exempt them from regulation under the Insurance Code. The Workers' Compensation law already addresses many of the same areas of insurance regulation found in the Insurance Code. In addition the Legislature has provided that the Workers' Compensation Division oversee the programs. It would be redundant for the Insurance Commissioner to oversee an agency of state government that is accountable to the Legislature. The enactment of this bill will specifically exclude the self-insured and the state fund portion of Workers' Compensation Insurance from regulation under the Insurance Code.

Section one of HB 426 also exempts the State Employee Group Insurance Program from regulation under the Insurance Code. In Section 2-18-812(6), MCA, Chapter 555 of the Laws of 1979, the Legislature previously exempted the State Employees Group Insurance Program from the provisions of Title 33. By placing this exemption in the Insurance Code, the provisions of Title 33 will contain the exemption for easy reference.

Section one of HB 426 also exempts from the Insurance Code the state comprehensive insurance plan under Section 2-9-202, MCA. This statute allows the Department of Administration to develop

sources. The cost of this regulation will add to the cost of providing the coverage. The question is whether the cost is worth the protection afforded by financial regulation.

The second area of regulation which will apply to the programs is the payment of the premium tax. As an insurer under the insurance code, contributions to the program would be considered premiums. All direct premiums received on risks located in the state are subject to the premium tax. The levying of the premium tax will increase the cost of the plans. At this time, since the plans are not regulated there is no way of estimating the premium tax impact.

The third critical area that would apply to the political subdivisions' plans would be the guaranty fund laws. Inclusion under the Insurance Code would provide political subdivisions with the protection of the fund and the responsibility of supporting it. When other insurers are declared insolvent, the political subdivisions would be assessed their proportional share of the money owed to policyholders. If for some reason. the political subdivisions plan became insolvent, its obligations would be covered by the fund.

The costs to the plans for belonging to the guaranty funds would be those costs associated with paying the assessments. In the property and casualty fund, rates can be increased cover the assessment. In the life and health fund, an assessment is offset against the premium tax obligation. In return for these expenses, the policyholders, claimants and the taxpayers would receive protection in the event a plan failed. Because the costs of participation in the guaranty fund vary from year to year, it is impossible to estimate the impact on the plans.

In summary HB 426 clarifies the law concerning the regulation of governmental insurance programs. For sound reasons, those insurance plans already being operated by the state under direction by this Legislature are exempt from further regulation of the Insurance Code. The insurance plans now being operated by political subdivisions with no specific Legislative guidance are placed under existing insurance regulation. There are costs associated with the decision to regulate insurance plans operated by the political subdivisions. The costs represent the protection afforded the policyholders, claimants and taxpayers by having the plans operated in accordance with existing insurance law.

EXHIBIT 21
DATE 2/4/87
HB 426

a self-funded program. The state may elect to purchase insurance from an admitted insurance carrier. That carrier will be regulated under the provisions of Title 33. If the state self-insures, the self insurance plan would not be regulated by the Commissioner of Insurance. The Legislature in conjunction with the Department of Administration, Tort Claims Division, are responsible for administering the program. There is no need for another state agency to become involved.

Section two of HB 426 would regulate under the provisions of Title 33, insurance programs arranged by political subdivisions of this state. Under Section 2-9-211, MCA, political subdivisions of this state are given the authority to buy insurance or elect to use a deductible or self-insurance plan. In addition the law allows them to enter into self-insurance plans with other political subdivisions. It is this pooling activity the bill would put under the existing insurance regulatory laws.

The concern is that the joint self-insurance plans are not reviewed by any regulatory body. These programs are designed to act as the first line of insurance protection for the public. Someone injured as a result of the negligence of a political subdivision must rely on the self-insurance plan for payment. It is also important to taxpayers that the plans be organized and operated in accordance with sound insurance financial requirements. If a self-insurance plan fails, taxpayers would be forced to make up the obligations.

Section two of HB 426 makes the provisions of the Insurance Code apply to employee group benefit programs offered by political subdivisions of this state. While it is clear the Legislature has given the Department of Administration the authority to administer a self-funded insurance program for state employees, the same authority has not been extended to political subdivisions of this state. At least one political subdivision has instituted a self-funded program.

The basic principal of insurance is to spread risk among many people. There is the potential danger that the political subdivision with a relatively small number of employees could be faced with a sizable claims. It is essential that any program establish and maintain adequate reserves to pay claims. Controls are necessary to assure the employees that they will receive benefits that are promised. Controls also assure that the taxpayers of the political subdivision will not be hit with tax levies to make up deficiencies.

Section two of HB 426 will have an impact on the insurance programs currently offered by political subdivisions. The programs will have to comply with the Insurance Code. In general the requirements mandate that the programs maintain adequate reserves to cover anticipated losses. This requirement will not let the political subdivision expend the reserves for other purposes. If the plan provides for reinsurance or excess loss coverage, the financial regulation will make sure that any such coverage is obtained from reliable

CLOSING

Rep. Driscoll stated that regarding the auditing problems, in the union the fringe benefits are paid by the hour, and they have an auditor and he audits over 500 contractors by himself. He said in the construction industry and working on any kind of government payroll, the hours worked have to be kept because of the certified payroll. He commented that the larger employers in the state are self insured and this wouldn't affect them. He said the union has actuaries on their pension plan and on health and welfare, the actuaries base everything on the hours worked, the pension has no unfunded liabilities and health insurance is as good as the state's insurance plan, and their actuary tells them how to keep it that way based on the hours worked system.

EXECUTIVE ACTION - February 11, 1987 - 10:15 a.m.

ACTION ON HOUSE BILL NO. 618

Chairman Kitselman stated that Rep. Rapp-Svrcek had requested that the bill be tabled.

Rep. Jones moved that House Bill No. 618 be TABLED. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 52

Rep. Brandewie moved that House Bill No. 52 be TABLED. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 119

Rep. Brandewie moved that House Bill No. 119 be TABLED. The motion carried with Rep. Pavlovich and Rep. Wallin opposed.

ACTION ON HOUSE BILL NO. 426

Rep. Glaser moved that House Bill No. 426 DO PASS. The motion carried with Reps. Bachini, Driscoll, Hansen, McCormick, Nisbet and Pavlovich opposed.

ACTION ON HOUSE BILL NO. 574

Rep. Driscoll moved that House Bill No. 574 DO PASS.

Rep. Pavlovich commented that this bill would help stabilize Montana economy if the liquor representative was a resident in the state rather than from out of state and sells liquor in Montana.

DAILY ROLL CALL

BUSINESS & LABOR COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date February 11, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

CS-30

STANDING COMMITTEE REPORT

February 11 19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 426

☑ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

REP. LEO KITSMAN Chairman

FIRST reading copy (WHITE color)

disagreed with the statement of Sen. Thayer. Sen. Thayer asked Mr. Brand why his union doesn't try to work to see what could be done to run them more efficiently rather than throw up roadblocks. Mr. Brand said they had tried to negotiate with the cabooses, tried to negotiate all other kinds of things with the management. He said if the management isn't willing to try to work with the workers, they have a problem. He also said the Burlington Northern is making more money than any other entity in business; their productivity per employee is the highest in the nation. Sen. Thayer asked what kind of negotiations took place with the cabooses. Mr. Brand said he was not involved in that and pointed out that the national contract said there would be a reduction of 25%, not a total destruction of the caboose in that contract.

There being no further questions, Rep. Fritz closed his presentation of HJR 8. He said they would like some investigation, as the resolution reads, into the fiscal, economic and environmental impact of divestiture of the shortline and he said the state of Montana is entitled to that information. He urged support of the resolution.

CONSIDERATION OF HOUSE BILL NO. 426: Rep. Bud Campbell, House District 48, Deer Lodge, sponsor, said the bill revises the insurance laws as they relate to governmental insurance programs. It provides that the code does not apply to the workers' compensation provisions in Title 39, the state employees group insurance program under Title 2, or to insurance funded through the state self-insurance reserve fund. The bill also amends the definition of insurance to include agreements between political subdivision of the state or an agreement under a political division offering insurance to officers and employees.

PROPONENTS: Robert Throssell, State Auditor's Office, said the bill was introduced at the request of the insurance commissioner. Mr. Throssell submitted written testimony which he explained to the committee (EXHIBIT 2) The insurance commissioner asked that the bill be introduced to bring it to the legislature's attention that there are, in fact, programs which are being operated and being touted as insurance which do not come under the guidelines of the legislature which have been established for insurance programs. The opponents, he said, would make very persuasive arguments why these local government run programs should be exempt from the insurance code. The insurance office wants a decision from the legislature as to how they want these programs to be operated.

Glen Drake, representing the American Insurance Association, said they supported the state auditor's efforts in this to make a determination of whether or not these governmental insurance programs are in fact insurance and thus come under the jurisdiction of the insurance commissioner or if they are something else.

Mr. Drake said he believed they appear to be in the nature of insurance and they should be regulated under the insurance provisions. However, he said, they did have a problem with their being regulated and that related to the guaranty fund. They did not believe they should come under the guaranty fund because of their funding and their structure. Even though they might come under the insurance code otherwise, their funding mechanism is such that they believe they would be high risk and ultimately the insurance carriers would end up bailing them out when they go broke. Mr. Drake presented proposed amendments to exclude them from that guaranty fund and asked that the committee exclude them from that fund if they should consider passing the bill. (See EXHIBIT 3)

Randy Gray, State Farm Mutual Insurance and the National Association of Independent Insurers, Great Falls, advised that the position of his principles was the same as Mr. Drake's testimony. He also agreed with Mr. Drake that they be excluded from the guaranty fund and supported Mr. Drake's amendments.

OPPONENTS: Alec Hansen, Montana League of Cities and Towns, said they didn't want to get into the insurance business but when they found out cities in the state of Montana couldn't buy liability insurance at any cost, they were forced to initiate a program. They put together what they considered to be a very solid, professional program with a lot of protection and safeguards built in. They issued $6.25 million in bonds, with permission of the legislature, to secure those programs. That provides considerable security, not only for the program, but for the bondholders, he said. He said they didn't feel their type of insurance should be regulated. According to Mr. Hansen, they were successful in the House in getting an amendment to exempt them from taxes and fees. The premiums to fund the program come from taxes; property taxes. He said they had met with the insurance commissioner's office to possibly set up some way of providing them with some basic information, some record keeping and some kind of reporting system. It appears from those conversations that they want the legislature to make a decision as to whether or not this insurance should be regulated, taxed and subject to the provisions of the insurance code. He said this is not insurance in the traditional sense. Mr. Hansen offered a proposed amendment (EXHIBIT 4) to provide that this is not a regulated program.

DISCUSSION OF HOUSE BILL NO. 426: Chairman Kolstad called for questions from committee members. He then asked Mr. Throssell what the primary reason was for the commissioner requesting this bill. Mr. Throssell replied that the programs were set up and called insurance and under the statutes the commissioner is charged with the duty of regulating those programs and seeing that they comply with the insurance codes. The bill is to ask the legislature to give direction to the insurance commissioner,

as to whether this program should be regulated or exempt.

Sen. Thayer asked Mr. Hansen if his group would be the only one affected by this bill. Mr. Hansen said he thought the counties did have a liability insurance program. He said his program was unique and was the first one of its kind in the U.S.

Sen. Thayer asked Mr. Gray if he supported the bill with Mr. Drake's amendments. He said that was correct and he agreed fully with the application of the guaranty fund and they were vitally concerned with that fund.

Chairman Kolstad asked if the Drake amendments preclude the local government programs from participating in this guaranty fund. That was correct, Mr. Gray said. It was his understanding if the bill was passed with Mr. Drake's amendment, the program would still be subject to the regulation of the commissioner's office for review purposes and violation purposes. They would be regulated in some areas but they would not be brought into the coverage area of the guaranty fund, so if one of them went insolvent, the rest of the industry would not be called on to cover that insolvency.

Sen. Williams asked what the auditor's office thought of the Drake amendments. Mr. Throssell said it was the position of the commissioner of insurance that the programs are insurance; the piecemeal of it defeats the purpose of the insurance code. The purpose of the insurance code is to assure people that they do have insurance and pieces cannot be picked out of this type of code.

Sen. Thayer said, what the auditor's office wants is either this bill, the way it is, without the Drake amendments, or accept Mr. Hansen's suggested amendments which would give an either/or choice. Mr. Throssell said for the regulation to mean anything it has to be a package.

Mr. Drake said in view of Mr. Throssell's testimony, it would be the view of the American Insurance Association, that the amendments proposed by Mr. Hansen, if adopted, would say in effect, that these funds are not insurance. If they are called insurance, which they basically are, when they go broke, the whole industry is associated with them. If they are not going to be excluded from the guaranty fund, they would support Mr. Hansen's position that they be declared not to be insurance by the legislature.

Chairman Kolstad asked Mr. Hansen when their program was first started, if they structured their premiums at approximately the same level that the premiums were costing them prior to the time that they weren't able to buy insurance. Mr. Hansen said it varied; some were a pretty high rate. They based their premiums on what they thought was necessary to make the program work.

He said, for the information of the committee, they are required to submit reports, file statements, under the terms of the bond program. Those bondholders have a very compelling interest in the program and, for that reason, it has to be run right and be secure and the premiums have to be adjusted in accordance with the losses, he said. They think the program is running very well and they have a good solid program.

There being no further questions, Rep. Campbell closed his presentation of HB 426.

CONSIDERATION OF HOUSE BILL NO. 437: Rep. Charles Swysgood, House District 73, Dillon, sponsor, said the bill gives the insurance commissioner the power to issue cease and desist orders. The bill establishes time limits in which the respondent must request a hearing on the order and in which a hearing must be held. The bill also gives the parties a certain period after the hearing in which to submit proposed findings of fact, conclusions of law, and supporting briefs to the hearing examiner and an additional period in which to respond to the other party's materials.

PROPONENTS: Andrea Bennett, State Auditor and Insurance Commissioner, said that many of those present had heard or read of the problems of the company known as Life of Montana of Bozeman and read her written testimony concerning the order to rehabilitate. (EXHIBITS 5, 6, 7 and 8) Those exhibits contain a letter to the president of the Life of Montana Company, a news release and a news article from the Bozeman Chronicle dated August 1, 1985. She said the legislation provides both an effective and fair enforcement method that allows for consumer protection and fair treatment of the violator and urged the committee's favorable consideration.

Roger McGlenn, Executive Director of the Independent Insurance Agents Association, said they stood in support of HB 437. They felt there was ample protection and due process under the statute for agents and companies and they felt the bill was in the best interests of Montana insurance consumers.

Glen Drake, American Insurance Association, said the Association supported the commissioner's efforts in attempting to regulate illegal acts of insurance companies through this cease and desist process and recommend the bill.

OPPONENTS: There were no opponents.

DISCUSSION OF HOUSE BILL NO. 437: Sen. Thayer asked if this was the only problem they had had. Mrs. Bennett said there had been many, many instances and they could give instances where they would have used the cease and desist order. She said it was usually in the marketing area or having agents that were not licensed.

Sen. Thayer MOVED SUBSTITUTE MOTION HJR 8 BE NOT CONCURRED IN, seconded by Sen. Hager. Sen. Thayer said everytime they try to tell some company how to run their business, all we do is drive them farther away from doing business in Montana. He felt it was poor legislation and there would be better ways to handle it.

Sen. Walker felt that Burlington Northern had run the Milwaukee out of the state and left the state with one rail line and spoke in favor of the resolution. It would give some checks and balances before eliminating their lines further, he said.

The question being called, the MOTION TO DO NOT CONCUR CARRIED with Sen. Walker voting "no".

Sen. Neuman MOVED TO TABLE HJR 8, seconded by Sen. Meyer. The MOTION CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 537: Sen. Neuman MOVED HB 537 BE CONCURRED IN, seconded by Sen. Meyer. The MOTION CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 426: Sen. Walker had talked with Mrs. Bennett about killing the bill but she said they wanted a statement from the legislature so he felt the proper thing to do was amend out the municipalities. It was suggested that the committee adopt the Hansen amendment. Sen. Walker said he felt that would be a benefit to the cities and local governments.

Sen. Thayer MOVED TO ADOPT THE HANSEN AMENDMENT (Exhibit 4), seconded by Sen. Meyer. The MOTION CARRIED.

Sen. Neuman asked Mr. Drake if the communities could apply for reinsurance. Mr. Drake said he thought there was a provision for reinsurance in their program.

Sen. Thayer MOVED HB 426 BE CONCURRED IN AS AMENDED. Chairman Kolstad said that Ms. McCue would like to have the committee hold the bill until she can check the amendments.

DISPOSITION OF HOUSE BILL NO. 622: Sen. Hager MOVED an AMENDMENT on page 5 to put a $1,000 limit on the penalty, seconded by Sen. McLane. The MOTION CARRIED.

Sen. Thayer said he was surprised there were no opponents to the bill, to which Chairman Kolstad agreed. Sen. Thayer MOVED TO TABLE HB 622, seconded by Sen. Walker. The MOTION CARRIED UNANIMOUSLY.

ROLL CALL

Business & Industry COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3/18/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
TOM HAGER	✓		
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

DATE March 18, 1987

COMMITTEE ON Business & Industry

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Opp
Glen Drake	American Ins Ass'n	426	(amend)	
Robert Throssell	STATE AUDITOR	426	✓	
Roger McGlenn	INDEPENDENT INS. AGENTS ASSOC. OF MT	426 437	Amend ✓	
Dave Hanson	MLCT			
Neal Egan	MSE, Inc.	HR28	✓	
Dave Brown	HD. 72	HJR28	✓	
Karla Gray	MPC	HJR28	✓	
Kathy Irigoin	State Auditor's Office	HB437	X	
John Adams	HJ 97	HB537	✓	
James W. Borchardt	State Auditor	537 and 632	✓	
Randy Gray	StateFarm + NAII	426	(amend) ✓	
[illegible] Lori Vegels	Mt. Chamber of Commerce	HJ28	✓	
Kay Foster	Bldg Contractors + City	HJ28	✓	
STEVEN KALCZYC	MT MUNICIPAL INSUR AUTH	HB 426		✓
JOE BRAND	United Transportation Union Brotherhood of Loc Eng' Maintenance of Way	HJR 8	✓	
HARRY FRITZ	HD 56	HJR8	✓	

(Please leave prepared statement with Secretary)

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2
DATE 3/18/87
BILL NO. HB 426

WRITTEN TESTIMONY OF THE STATE AUDITOR'S OFFICE
HOUSE BILL 426
MARCH 18, 1987

Purpose/Background

The Legislature over the years has created various governmental insurance programs administered by state and local governments. An example of this type of program is the state fund plan of Workers' Compensation Insurance. The state fund plan of the Workers' Compensation Insurance is operated in the same fashion as an insurance company. An employer obtains coverage by paying a premium to the state fund. The other style of insurance programs operated by the state are those currently used to fund the self-insurance reserve for tort claims and the state employees group insurance plan. In these two programs, the state creates a reserve or funds the claims that come in.

As a result of the state of Montana becoming involved in the provision of insurance benefits, specific acts have been passed to create these programs. At times, like the state employees group insurance program, the Legislature has specifically stated that Title 33, the Insurance Code, will not apply to the program. But in the case of Workers' Compensation and the State Self-Insurance Reserve Fund, no specific exclusions were provided. The purpose of this HB 426 is to have the Legislature clarify if it intends for the Insurance Code to apply to these types of programs. This bill addresses five specific governmental insurance programs.

Section by Section Discussion

Section one exempts Workers' Compensation Plan Number One, the employer or employers' association self-insurance plan and Workers' Compensation Plan Number Three, the state plan, from regulation by the Insurance Code. While not clearly stated in the law, the effect of current law is to exempt them from regulation under the Insurance Code. The Workers' Compensation law already addresses many of the same areas of insurance regulation found in the Insurance Code. In addition the Legislature has provided that the Workers' Compensation Division oversee the programs. It would be redundant for the Insurance Commissioner to oversee an agency of state government that is accountable to the Legislature. The enactment of this bill will specifically exclude the self-insured and the state fund portion of Workers' Compensation Insurance from regulation under the Insurance Code.

Section one also exempts the State Employee Group Insurance Program from regulation under the Insurance Code. In Section 2-18-812(6), MCA, Chapter 555 of the Laws of 1979, the Legislature previously exempted the State Employees Group Insurance Program from the provisions of Title 33. By placing this exemption in the Insurance Code, the provisions of Title 33 will contain the exemption for easy reference.

Section one also exempts from the Insurance Code the state comprehensive insurance plan under Section 2-9-202, MCA. This statute allows the Department of Administration to develop a self-funded program. The state may elect to purchase insurance from an admitted insurance carrier. That carrier will be regulated under the provisions of Title 33. If the state self-insures, the self insurance plan would not be regulated by the Commissioner of Insurance. The Legislature in conjunction with the Department of Administration, Tort Claims Division, are responsible for administering the program. There is no need for another state agency to become involved.

Section two would regulate under the provisions of Title 33, insurance programs arranged by political subdivisions of this state. Under Section 2-9-211, MCA, political subdivisions of this state are given the authority to buy insurance or elect to use a deductible or self-insurance plan. In addition the law allows them to enter into self-insurance plans with other political subdivisions. It is this pooling activity the bill would put under the existing insurance regulatory laws.

The concern is that the joint self-insurance plans are not reviewed by any regulatory body. These programs are designed to act as the first line of insurance protection for the public. Someone injured as a result of the negligence of a political subdivision must rely on the self-insurance plan for payment. It is also important to taxpayers that the plans be organized and operated in accordance with sound insurance financial requirements. If a self-insurance plan fails, taxpayers would be forced to make up the obligations.

Section two makes the provisions of the Insurance Code apply to employee group benefit programs offered by political subdivisions of this state. While it is clear the Legislature has given the Department of Administration the authority to administer a self-funded insurance program for state employees, the same authority has not been extended to political subdivisions of this state. At least one political subdivision has instituted a self-funded program.

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The basic principal of insurance is to spread risk among many people. There is the potential danger that the political subdivision with a relatively small number of employees could be faced with a sizable claims. It is essential that any program establish and maintain adequate reserves to pay claims. Controls are necessary to assure the employees that they will receive benefits that are promised. Controls also assure that the taxpayers of the political subdivision will not be hit with tax levies to make up deficiencies.

Section two will have an impact on the insurance programs currently offered by political subdivisions. The programs will have to comply with the Insurance Code. In general the requirements mandate that the programs maintain adequate reserves to cover anticipated losses. This requirement will not let the political subdivision expend the reserves for other purposes. If the plan provides for reinsurance or excess loss coverage, the financial regulation will make sure that any such coverage is obtained from reliable sources. The cost of this regulation will add to the cost of providing the coverage. The question is whether the cost is worth the protection afforded by financial regulation.

The second area of regulation which will apply to the programs is the payment of the premium tax. As an insurer under the insurance code, contributions to the program would be considered premiums. All direct premiums received on risks located in the state are subject to the premium tax. The levying of the premium tax will increase the cost of the plans. At this time, since the plans are not regulated there is no way of estimating the premium tax impact.

The third critical area that would apply to the political subdivisions' plans would be the guaranty fund laws. Inclusion under the Insurance Code would provide political subdivisions with the protection of the fund and the responsibility of supporting it. When other insurers are declared insolvent, the political subdivisions would be assessed their proportional share of the money owed to policyholders. If for some reason the political subdivisions plan became insolvent, its obligations would be covered by the fund.

The costs to the plans for belonging to the guaranty funds would be those costs associated with paying the assessments. In the property and casualty fund, rates can be increased cover the assessment. In the life and health fund, an assessment is offset against the premium tax obligation. In return for these expenses, the policyholders, claimants and the taxpayers would receive protection in the event a plan failed. Because the costs of participation in the guaranty fund vary from year to year, it is impossible to estimate the impact on the plans.

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Amendments

After this bill was heard in Committee, an amendment was added during House debate. The amendment inserts a new section in the bill which exempts any arrangement, plan, or interlocal agreement of political subdivisions providing insurance from any taxes and fees imposed by Title 33. The State Auditor has requested that this amendment be deleted from the bill. The intent of the bill is to clarify that the programs operated by political subdivisions be treated like any other insurance. To exempt them from various portions of the insurance regulations results in the current situation of them not being regulated.

Summary

House Bill 426 clarifies the law concerning the regulation of governmental insurance programs. For sound reasons, those insurance plans already being operated by the state under direction by this Legislature are exempt from further regulation of the Insurance Code. The insurance plans now being operated by political subdivisions with no specific Legislative guidance are placed under existing insurance regulation. There are costs associated with the decision to regulate insurance plans operated by the political subdivisions. The costs represent the protection afforded the policyholders, claimants and taxpayers by having the plans operated in accordance with existing insurance law.

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SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 2
DATE 3/18/87
BILL NO. HB 426

AMENDMENT OF STATE AUDITOR
House Bill 426

1. Page 4, line 20
Strike: section 3 in its entirety
Renumber: subsequent sections

SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 3
DATE 3/18/87
BILL NO. HB 426

PROPOSED AMENDMENT TO THIRD READING (BLUE) COPY OF HB 426

1. Title, line 8
Following: 33-1-102
Strike: "AND"
Insert: " , "
Following: "33-1-201"
Insert: "33-10-101, AND 33-10-102,"

2. Page 4
Following: line 19
Insert: "Section 3. Section 33-10-101, MCA, is amended to read:

"**33-10-101. Short title, purpose, scope, and construction.** (1) This part shall be known and may be cited as the "Montana Insurance Guaranty Association Act".

(2) The purpose of this part is to provide a mechanism for the payment of covered claims under certain insurance policies to avoid excessive delay in payment and to avoid financial loss to claimants or policyholders because of the insolvency of an insurer, to assist in the detection and prevention of insurer insolvencies, and to provide an association to assess the cost of such protection among insurers.

(3) This part shall apply to all kinds of direct insurance, except ~~life, title, surety, disability, credit, mortgage, guaranty, and ocean marine insurance~~:

(a) life insurance;
(b) title insurance;
(c) surety insurance;
(d) disability insurance;
(e) credit insurance;
(f) mortgage insurance;
(g) guaranty insurance;
(h) ocean marine insurance;

(i) any arrangement, plan, or interlocal agreement between political subdivisions of this state whereby the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan; and

(j) any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state whereby the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program.

(4) This part shall be liberally construed to effect the purpose under subsection (2) which shall constitute an aid and guide to interpretation.""

Renumber: subsequent sections

3. Page 4
Following: line 19
Insert: "Section 4. Section 33-10-201, MCA, is amended to read:

"33-10-201. Short title, purpose, scope, and construction. (1) This part shall be known and may be cited as the "Montana Life and Health Insurance Guaranty Association Act".

(2) The purpose of this part is to protect policyowners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, annuity contracts, and supplemental contracts, subject to certain limitations, against failure in the performance of contractual obligations due to the impairment of the insurer issuing such policies or contracts.

(3) To provide this protection:

(a) an association of insurers is created to enable the guaranty of payment of benefits and of continuation of coverages;

(b) members of the association are subject to assessment to provide funds to carry out the purpose of this part; and

(c) the association is authorized to assist the commissioner, in the prescribed manner, in the detection and prevention of insurer impairments.

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(4) This part shall apply to direct life insurance policies, health insurance policies, annuity contracts, and contracts supplemental to life and health insurance policies and annuity contracts issued by persons authorized to transact insurance in this state at any time.

(5) This part shall not apply to:

(a) any such policies or contracts or any part of such policies or contracts under which the risk is borne by the policyholder;

(b) any such policy or contract or part thereof assumed by the impaired insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued; or

(c) any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state whereby the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program.

(6) This part shall be liberally construed to effect the purpose under subsections (2) and (3) which shall constitute an aid and guide to interpretation.

(7) Nothing in this part shall be construed to reduce the liability for unpaid assessments of the insureds of an impaired insurer operating under a plan with assessment liability.

Renumber: subsequent sections

SENATE BUSINESS &
EXHIBIT NO. 3
DATE 3-18-8
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SENATE BUSINESS & INDUSTRY
EXHIBIT NO. 4
DATE 3-18-87
BILL NO. HB 426

Amendments to HB 426 Third reading (blue) copy

1. Title, line 8.
Strike: "SECTIONS"
Insert: "SECTION"
Strike: "AND 33-1-201"

2. Page 2, following line 12.
Insert: "(7)(a) This code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state whereby the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan.

(b) This code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangment, plan, or program of a single political subdivision of this state whereby the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program."

3. Page 2, line 13 through line 25 on line 4.
Strike: sections 2 and 3 in their entirety
Renumber: subsequent section

Mary Westwood, Attorney, representing Montana Sulphur & Chemical Company (See Exhibit 6)

Barbara Archer, representing the Women's Lobbyist Fund (See Exhibit 7)

OPPONENTS: There were no opponents present to HB 817.

HB 372 -- Being held in committee for further consideration.

HB 426 -- Senator Walker moved that HB 426 AS AMENDED BE CONCURRED IN. Senator Meyer seconded the motion which passed unanimously.

HB 437 -- Senator Neuman moved that HB 437 BE TABLED. There was no second to the motion. For lack of a second, no action was taken and the bill was held in committee.

HB 626 -- Senator Boylan moved to RECONSIDER. Senator Walker seconded the motion which passed.

Senator Boylan moved that the amendment be ADOPTED. The motion was seconded by Senator Walker and the amendment was adopted unanimously.

Senator Boylan moved that HB 626 AS AMENDED BE CONCURRED IN. Senator Walker seconded the motion. The motion passed unanimously.
Senator Boylan was designated by Chairman Kolstad to carry HB 626 on 2nd Reading.

HB 586 -- Being held for HB 632.

HB 648 -- Being held until the Monday meeting for tighter descriptions.

HB 179 -- Sen. Thayer moved HB 179 BE NOT CONCURRED IN. The motion was seconded by Senator Meyer.

During discussion on HB 179, Roger Tippy, lobbyist for the Montana Independent Bankers, presented the committee with a letter and proposed amendment on this bill. (See Exhibit 8)

Motion failed on a tie vote with the following senators voting "Aye": Hager, Williams, Thayer, Meyer and Neuman; and senators Walker, Weeding, McLane, Kolstad and Boylan voting "Nay".

ROLL CALL

Business & Industry COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 3/20/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
TOM HAGER	✓		
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

MARCH 20, 19 87

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 426

THIRD reading copy (BLUE color)

CAMPBELL (BECK)

REVISE GOVERNMENT INSURANCE

Respectfully report as follows: That HOUSE BILL No. 426

be amended as follows:

1. Title, line 8.
   Strike: "SECTIONS"
   Insert: "SECTION"
   Strike: "AND 33-1-201"

2. Page 2, following line 12.
   Insert: "(7)(a) This code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state whereby the political subdivisions undertake to separately or jointly indemnify one another by way of a pooling, joint retention, deductible, or self-insurance plan.

   (b) This code does not apply to any arrangement, plan, or interlocal agreement between political subdivisions of this state or any arrangement, plan, or program of a single political subdivision of this state whereby the political subdivision provides to its officers, elected officials, or employees disability insurance or life insurance through a self-funded program."

3. Page 2, line 13 through line 25 on page 4.
   Strike: sections 2 and 3 in their entirety
   Renumber: subsequent section

AND AS AMENDED,

BE CONCURRED IN

~~XXXXXX~~ ~~DO PASS~~

~~XXXXXXXXX~~ ~~DO NOT PASS~~

SENATOR ALLEN C. KOLSTAD, Chairman.